IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13640 of 2005

Between:

N.Sreeranjani Devi, W/o.Bala subbaiah (Missing Since 18-7-2000, (TTA leeja Telephone Exchange, Gadwal, Mahabubnagar) R/o.16-11-610, Gaddiannaram, Dilshuknagar, Hyderabad.

..... PETITIONER

AND

1 The Union of India Rep by its Secretary, Department of Telecommunications, Ministry of Communications & Informations Technology, 20Ashoka Road, New Delhi-01.
2 The Controller of Communications, Accounts Department of Telecom, 3rd Floor, Triveni Complex, Abids, Hyderabad-1.
3 The Chief General Manager, Telecom, (BSNL), A.P.Circle, Doorsanchar Bhavan, Hyderabad.
4 The General Manager, Telecom District, (BSNL) Mahaboobnagar.
5 The Divisional Engineer (Mtce) (BSNL), Gadwal, Mahaboobnagar district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order or orders, direction or directions, writ or writs mostly one in the nature of writ of mandamus directing the respondents to release the pensionary benefits as the case of the petitioner's husband is one of an official's whereabouts not known and a case of Man-Missing in terms of G.O.I., Department Pension and Pensioner Welfare O.M.No.1/17/86-P & P.W., dt29-8-1986, published as G.O.I., Instructions No.9 under Rule-54 of CCS (pension) Rules, while holding the action of the respondent No.5 in removing the husband of the petitioner from service, Vide Proceedings Memo.No.X-1/R-14/DE-GWL/NB/2003-04, dt.30-8-2004 (enclosed As Ann-8) as bad in law, without jurisdiction power and authority and violative of Article 21 of the Constitution of India and consequently set aside the same and to pass such other order or orders.

Counsel for the Petitioner : DR.ARAGHU KUMAR

Counsel for the Respondents: Mr. Kanthi Narahari,
Standing Counsel for Central Government.

The Court made the following :

O R D E R:

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This Writ Petition is filed by the petitioner aggrieved by the action of the respondents in passing an order of removal against the husband of the petitioner by proceedings dated 30.08.2004 without considering the representation of the petitioner for payment of pensionary and other terminal benefits, in view of the whereabouts of the petitioner's husband is not known, with reference to which the petitioner had already approached the respondents and made her representation as early as on 11.10.2003 enclosing even the final report and the FIR, which shows that the petitioner's husband is not traceable, along with other relevant documents.

2. According to the petitioner, her husband was employed in the respondent organisation originally in the year 1981 as Lineman, and later he was promoted to the cadre of Technician and posted to Gadwal, Mahaboob Nagar division, and promoted as Telecom Technical Assistant and posted to Telephone Exchange, Ieeja in Gadwal Sub-Division, Mahaboob Nagar division. But, however, the petitioners' husband went from the house for purchasing cigarettes on 22.08.2000 and did not return back to home so far. Thereafter, as the petitioner's husband's whereabouts are not known, the petitioner lodged a complaint with the concerned police on 10.02.2001, which was registered as Cr.No. 8 of 2001 as a Man-Missing case. The police department after conducting necessary enquiry, having found that there is no possibility of tracing the husband of the petitioner, issued a final report under Sec.173 Cr.P.C., stating that all possible efforts have been made to locate the missing person, but no useful clues or information came forth. It is stated that the Sub-Divisional Engineer (Groups) issued a Memo dated 19.09.2003 requiring the husband of the petitioner for duties. Immediately after the receipt of the said Memo, the petitioner made a representation dated 11.10.2003 to the General Manager, Telecom, Mahaboob Nagar district informing him about the missing of the

petitioner's husband and also sought for settlement of the family pension in terms of the instructions of the Government of India, enclosing final report of the FIR. But, the respondents instead of taking appropriate action in accordance with the instructions of the Government of India for settling the family pension etc., passed an order, as if the petitioner's husband was absconding from the duties, and therefore, he was removed from service. Hence, the petitioner has come up with the present Writ Petition.

3. At the time of hearing the learned counsel for the petitioner stated that the petitioner has submitted representations to the respondents, enclosing documents in proof of man-missing case with reference to her husband, but, however, the respondents did not act upon the same, but passed the impugned order illegally. Hence, the learned counsel sought to set aside the impugned order with a further direction to the respondents for payment of the pensionary and other terminal benefits for which the petitioner is entitled in accordance with law.

4. The learned Standing Counsel for the Respondents, however, contended that the petitioner did not file the necessary documents in support of her representation to prove that she is entitled for family pension and other benefits, and, therefore, sought for dismissal of the Writ Petition.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, and considered the material on record.

6. At the time of hearing, the learned counsel for the petitioner referred Page No.21 of the material papers filed along with the Writ Petition, showing that the representation of the petitioner dated 11.02.2003 was received by the office of the respondents where there is a reference that the said representation is enclosed with a copy of the FIR and the Final Report of Gadwal Police Station for reference to the respondents. But, however, it is stated on behalf of the respondents that they have not received the enclosures. The learned counsel also referred to the instructions issued by the Central Government with reference to the payment of retirement gratuity and family pension to the family, in case an official's whereabouts are not known. In view of the above instructions, it is obligatory on the part of the

respondents to pass appropriate orders on the representation of the petitioner, instead of passing the impugned order of removal of the husband of the petitioner, especially when his whereabouts are not known.

7. Under the above circumstances, the impugned order of removal is set aside. The respondents are directed to consider the case of the petitioner in the light of the guidelines of the Central Government, with reference to the whereabouts of the husband of the petitioner are not known, especially in the light of the FIR and the Final Report furnished by the Police Department, and the CCS (Pension) Rules. As it is represented that the respondents did not receive the enclosed copies, the petitioner is directed to present another copy of the representation along with the enclosures, within a period of ten days from the date of receipt of a copy of this order. The respondents are also further directed to consider the case of the petitioner and pass appropriate orders within a period of eight weeks thereafter.

8. The Writ Petition is disposed of accordingly. No costs.

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S.Ananda Reddy, J.

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To

1 The Secretary, Department of Telecommunications, Ministry of Communications & Informations Technology, 20Ashoka Road, New Delhi-01.
2 The Controller of Communications, Accounts Department of Telecom, 3rd Floor, Triveni Complex, Abids, Hyderabad-1.
3 The Chief General Manager, Telecom, (BSNL), A.P.Circle, Doorsanchar Bhavan, Hyderabad.
4 The General Manager, Telecom District, (BSNL) Mahaboobnagar.
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THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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